

FIRST REGULAR SESSION

# HOUSE BILL NO. 671

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HAGAN-HARRELL.

Read 1<sup>st</sup> time February 7, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1011L.011

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### AN ACT

To repeal sections 104.103, 104.415, 104.612 and 104.1045, RSMo 2000, relating to public retirement systems, and to enact in lieu thereof four new sections relating to the same subject.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 104.103, 104.415, 104.612 and 104.1045, RSMo 2000, are repealed  
2 and four new sections enacted in lieu thereof, to be known as sections 104.103, 104.415, 104.612  
3 and 104.1045, to read as follows:

104.103. 1. Each member who was employed prior to August 28, 1997, and retires on  
2 or after May 12, 1981, shall receive each year a percentage increase in the amount of benefits  
3 received by the member during the preceding year of eighty percent of the increase in the  
4 consumer price index determined in the manner hereinafter provided. Any such annual benefit  
5 increase, however, shall not exceed five percent, nor be less than four percent, and the total  
6 increase in the amount of benefits received pursuant to the provisions of this section shall not  
7 exceed sixty-five percent of the initial monthly benefit which the member received upon  
8 retirement or the benefit received immediately prior to October 1, 1986, whichever is later.

9 2. Each member who is employed for the first time on or after August 28, 1997, and  
10 retires shall be entitled annually to a percentage increase in the retirement benefit payable equal  
11 to [eighty] **one hundred** percent of the increase in the consumer price index. Such benefit  
12 increase, however, shall not exceed five percent of the retirement benefit payable prior to the  
13 increase.

14 3. Each member who is employed before August 28, 1997, and terminates employment

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 or retires after that date shall be entitled to the annual benefit increase described in subsection  
16 1 of this section. For such members, the annual benefit increase described in subsection 2 of this  
17 section shall not be effective until the year in which the member reaches the limit on total annual  
18 benefit increases provided by subsection 1 of this section. After that year, the member shall  
19 receive the annual benefit increase described in subsection 2 of this section.

20 4. Survivors of members described in subsection 2 of this section shall be entitled to the  
21 annual benefit increase described in that subsection.

22 5. For the purposes of this section, any increase in the consumer price index shall be  
23 determined in January of each year, based upon the percentage increase of (a) the consumer price  
24 index for the preceding calendar year over (b) the consumer price index for the calendar year  
25 immediately prior thereto. Any increase so determined shall be applied in calculating any benefit  
26 increases that become payable under this section during the calendar year in which the  
27 determination is made and in no case shall the percentage be less than zero.

28 6. An annual increase, if any is due under either this section or section 104.612 for  
29 special consultants with the highways and transportation employees' and highway patrol  
30 retirement system, shall be payable monthly beginning on a date specified by the board.

31 7. For members who retire on or after July 1, 2000, in the event such member has chosen  
32 a joint and survivor option under the provisions of section 104.090 and the member's eligible  
33 spouse precedes the member in death, the member's benefit shall revert, effective the first of the  
34 month following the death of the spouse regardless of when the board receives the member's  
35 written application for the benefit provided in this subsection, to an amount equal to the  
36 member's normal annuity, as adjusted for early retirement if applicable; such benefit shall include  
37 any increases the member would have received since the date of retirement had the member  
38 elected a normal annuity. In no event shall retroactive benefits be paid.

39 8. Effective on or after July 1, 2000, any retired member who had elected a joint and  
40 survivor payment option and whose spouse precedes or preceded the member in death shall upon  
41 application to the board be made, constituted, appointed and employed by the board as a special  
42 consultant on the problems of retirement, aging and other state matters. As a special consultant  
43 under the provisions of this subsection, the member's reduced benefit will revert to a normal  
44 annuity as adjusted for early retirement if applicable, effective the first of the month following  
45 the death of the spouse regardless of when the board receives the member's written application;  
46 such benefit shall include any increases the retired member would have received since the date  
47 of retirement had the member elected a normal annuity. In no event shall retroactive benefits be  
48 paid.

104.415. 1. Each member who was employed prior to August 28, 1997, and retires on  
2 or after May 12, 1981, shall receive each year a percentage increase in the amount of benefits

received by the member during the preceding year of eighty percent of the increase in the consumer price index calculated in the manner hereinafter provided. Such annual benefit increase, however, shall not exceed five percent, nor be less than four percent, and the total increase in the amount of benefits received pursuant to the provisions of this subsection shall not exceed sixty-five percent of the initial benefit which the member received upon retirement or the benefit received immediately prior to October 1, 1986, whichever is later.

2. Each member who is employed for the first time on or after August 28, 1997, and retires shall be entitled annually to a percentage increase in the retirement benefit payable equal to [eighty] **one hundred** percent of the increase in the consumer price index. Such benefit increase, however, shall not exceed five percent of the retirement benefit payable prior to the increase.

3. Each member who is employed before August 28, 1997, and terminates employment and retires after that date shall be entitled to the annual benefit increase described in subsection 2 of this section. For such members, the annual benefit increase described in subsection 2 of this section shall not be effective until the year in which the member reaches the limit on total annual benefit increases provided by subsection 1 of this section. During that year on the anniversary date of the member's retirement, the member or person shall receive the benefit increase described in subsection 1 or 2 of this section, whichever is greater. After that year, the member shall receive the annual benefit increase described in subsection 2 of this section.

4. Survivors of members described in subsection 2 of this section shall be entitled to the annual benefit increase described in that subsection. The annual benefit increases of such survivors and any other survivors of retired members of the Missouri state employees' retirement system, if any are due, shall commence during the month of the anniversary date of the member's retirement date if the member died on or after July 1, 2000.

5. For the purposes of this section, any increase in the consumer price index shall be determined in January of each year, based upon the percentage increase of (a) the consumer price index for the preceding calendar year over (b) the consumer price index for the calendar year immediately prior thereto. Any increase so determined shall be applied in calculating any benefit increases that become payable pursuant to this section during the calendar year in which the determination is made and in no case shall the percentage be less than zero.

6. The annual benefit increases of members described in this section who retire on or after July 1, 2000, if any are due, shall commence beginning twelve months after the commencement of the member's retirement benefit. Nothing in this section shall be construed to prohibit a member from waiving his or her right to receive the annual increase provided pursuant to this section. However, the waiver may not extend beyond the age permitted by Section 401(a)(9) of the Internal Revenue Code. The waiver shall be final as to the annual

39 increase waived.

104.612. 1. Each special consultant, not otherwise eligible for a retirement benefit  
2 increase pursuant to section 104.415, employed or eligible for employment on or after May 12,  
3 1981, by a board of trustees of a retirement system as provided in subsection 1 of section  
4 104.610 shall, in addition to duties prescribed in section 104.610, and upon request of the board  
5 of trustees, give the board, orally or in writing, a short detailed statement on the problems of  
6 retirement under the current monthly benefits.

7 2. As compensation for the extra duty imposed by subsection 1 of this section, each  
8 special consultant shall receive, in addition to all other compensation provided by law, a  
9 percentage increase in compensation each year, computed upon the total amount which the  
10 consultant received in the previous year from state retirement benefits, compensation pursuant  
11 to the provisions of section 104.610, and compensation pursuant to the provisions of this section,  
12 of eighty percent of the increase in the consumer price index calculated in the manner specified  
13 in section 104.415. The increase in compensation for special consultants who have been retired  
14 less than one year shall be one-twelfth of the applicable cost-of-living increase for every month  
15 or partial month that the member was retired and receiving an annuity. Any such annual increase  
16 in compensation, however, shall not exceed five percent, nor be less than four percent, and the  
17 total increase in compensation to each special consultant pursuant to the provisions of this  
18 subsection shall not exceed sixty-five percent of the total retirement benefits and compensation  
19 he or she was receiving immediately prior to October 1, 1986.

20 3. As compensation for the services described in subsections 1 and 2 of this section, each  
21 special consultant shall receive, in addition to all other compensation provided by those  
22 subsections, an annual percentage increase in the retirement benefit payable equal to [eighty] **one**  
23 **hundred** percent of the increase in the consumer price index. Such benefit increase, however,  
24 shall not exceed five percent of the retirement benefit payable prior to the increase. The annual  
25 benefit increase described in this subsection shall not be effective until the year in which the  
26 special consultant reaches the limit on total annual increases provided by subsection 2 of this  
27 section. During that year on the anniversary date of the special consultant's retirement, the  
28 special consultant shall receive the benefit increase described in subsection 2 of this section or  
29 this subsection, whichever is greater. After that year, the special consultant shall receive the  
30 annual benefit increase described in this subsection. Any special consultant who reaches the  
31 limit on total annual benefit increases provided by subsection 2 prior to October 1, 1996, shall  
32 receive the benefit increase described in this subsection on September 1, 1997. Any special  
33 consultant who reaches the limit on total annual benefit increases provided by subsection 2 on  
34 or after October 1, 1996, but before September 1, 1997, shall receive the benefit increase  
35 described in this subsection beginning on the anniversary date of the special consultant's

36 retirement following September 1, 1997. In no event shall any retroactive annual benefit  
37 increases be paid pursuant to this subsection to any special consultant who reached the limit  
38 provided in subsection 2 of this section prior to August 28, 1997.

39         4. The compensation provided for in this section shall be payable in equal monthly  
40 installments and shall be consolidated with any retirement benefits and compensation due  
41 pursuant to section 104.610 which is payable to the special consultant. The compensation  
42 provided for in this section shall be paid from the retirement fund for all members who retire  
43 after August 30, 1980. The retirement fund shall be funded on a sound actuarial basis for such  
44 benefits as prescribed in sections 104.070 and 104.436. Appropriations necessary to achieve a  
45 sound actuarial basis for the retirement fund shall be made from general revenue or any other  
46 fund during the three general assembly sessions next occurring after February 14, 1980.  
47 Appropriations to maintain the retirement fund on a continuing sound actuarial basis shall be  
48 made as necessary in accordance with the provisions of sections 104.070, 104.436 and 104.438.  
49 For all members who retire prior to September 1, 1980, the compensation provided for in this  
50 section shall be funded as provided in sections 104.070 and 104.436.

51         5. The compensation provided for in this section shall be treated as any other state  
52 retirement benefits, payable by the Missouri state employees' retirement system or the  
53 transportation department and highway patrol retirement system are treated and shall not be  
54 subject to execution, garnishment, attachment, writ of sequestration, or any other process or  
55 claim whatsoever, and shall be unassignable, anything to the contrary notwithstanding.

56         6. The employment provided for by this section shall in no way affect any person's  
57 eligibility for retirement benefits pursuant to this chapter, or in any way have the effect of  
58 reducing retirement benefits, anything to the contrary notwithstanding.

59         7. (1) Any person who is receiving, on or after August 28, 1994, a survivor benefit  
60 provided by the provisions of this chapter by virtue of being a survivor of a member, a survivor  
61 of a judge as defined in section 476.515, RSMo, or a survivor of an administrative law judge or  
62 legal advisor as those terms are defined in section 287.812, RSMo, and who was employed prior  
63 to August 28, 1997, shall, upon application, be made, constituted, appointed and employed by  
64 the board as a special consultant on the problems of retirement, aging, and other matters relating  
65 to survivors of deceased members and upon the request of the appropriate board shall give  
66 opinions, in writing or orally, in response to such requests of the board. As compensation for  
67 the services required by this subsection, each such special consultant shall receive, in addition  
68 to all other compensation provided by law, a percentage increase in compensation each year,  
69 computed upon the amount which the special consultant received in the previous year in survivor  
70 benefits from the system, of eighty percent of the increase in the consumer price index calculated  
71 in the manner specified in section 104.415. Any such increase in compensation, however, shall

72 not exceed five percent, nor be less than four percent;

73 (2) The total increases in benefits received pursuant to this subsection shall be limited  
74 by the following:

75 (a) In cases of death after retirement where an optional form of payment was elected by  
76 the retirant, the total increase shall not exceed sixty-five percent of the survivor benefit which  
77 would have been payable based on the option elected and the original benefit amount payable  
78 to the retirant;

79 (b) In cases of death before retirement, the total increase shall not exceed sixty-five  
80 percent of the original survivor benefit amount.

81 8. As compensation for the services described in subsection 7 of this section, each  
82 special consultant shall receive, in addition to all other compensation provided by subsection 7  
83 of this section, an annual percentage increase in the survivor benefit payable equal to [eighty]  
84 **one hundred** percent of the increase in the consumer price index. Such benefit increase,  
85 however, shall not exceed five percent of the survivor benefit payable prior to the increase. The  
86 annual benefit increase described in this subsection shall not be effective until the year in which  
87 the special consultant reaches the limit on total annual increases provided by subsection 7 of this  
88 section. During that year on the anniversary date that the special consultant's benefit became  
89 payable, the special consultant shall receive the benefit increase described in subsection 7 of this  
90 section or this subsection, whichever is greater. After that year, the special consultant shall  
91 receive the annual benefit increase described in this subsection. Any special consultant who  
92 reaches the limit on total annual benefit increases provided by subsection 7 of this section prior  
93 to October 1, 1996, shall receive the benefit increase described in this subsection on  
94 September 1, 1997. Any special consultant who reaches the limit on total annual benefit  
95 increases provided by subsection 7 of this section on or after October 1, 1996, but before  
96 September 1, 1997, shall receive the benefit increase described in this subsection beginning on  
97 the anniversary date that the special consultant's benefit became payable following September 1,  
98 1997. In no event shall any retroactive annual benefit increases be paid pursuant to this  
99 subsection to any special consultant who reached the limit provided in subsection 7 of this  
100 section prior to August 28, 1997.

101 9. The employment provided for by this subsection shall in no way affect any person's  
102 eligibility for retirement or survivor benefits pursuant to the provisions of this chapter, or in any  
103 way have the effect of reducing any retirement or survivor benefits, anything to the contrary  
104 notwithstanding. An annual increase, if any is due, shall be payable monthly beginning on a date  
105 specified by the board. Nothing in this subsection shall be construed to prohibit a special  
106 consultant from waiving the right to receive the annual increase provided pursuant to this  
107 subsection. However, the waiver may not extend beyond the age permitted by the Tax Equity

108 and Fiscal Responsibility Act (TEFRA). The waiver shall be final as to the annual increase  
109 waived.

110 10. (1) Any member who terminated employment on or after October 1, 1984, who is  
111 receiving an annuity on September 1, 1997, and who had elected one of the options providing  
112 for a continuing lifetime annuity to a surviving spouse, and who has been made, constituted and  
113 appointed by the board as a special consultant on the problems of retirement, aging, and other  
114 matters relating to retirement shall be eligible for additional compensation. As additional  
115 compensation for such services, each special consultant shall be eligible for the benefits  
116 described in this subdivision. The annuity of a special consultant who is receiving benefits under  
117 option 1 of section 104.395, shall be reduced in the same manner as an annuity under option 2  
118 of section 104.395, as in effect immediately prior to August 28, 1997. The annuity of a special  
119 consultant who is receiving benefits under the provisions of option 2 of section 104.395, as in  
120 effect on or after August 13, 1986, but prior to August 28, 1997, shall be determined in the same  
121 manner as an annuity under option 2 of section 104.395, as in effect on September 1, 1997. The  
122 annuity of a special consultant who is receiving benefits under an annuity that provides for a  
123 continuing lifetime annuity to a surviving spouse other than as previously described in this  
124 subdivision shall be reduced in a manner approved by the board so as to be consistent with the  
125 other continuing lifetime annuities described in this subdivision. Such annuities shall be  
126 adjusted for early retirement if applicable. The member's benefit shall include any formula or  
127 minimum benefit increases or both, and cost-of-living increases the retired member would have  
128 received since the date of retirement had the member's benefit been calculated as described in  
129 this subdivision. The member shall also receive a one-time payment in an amount equal to the  
130 difference in the amount of retirement benefits that the member received and the amount the  
131 member would have received since the date of retirement had the member's benefit been  
132 calculated as described in this subdivision.

133 (2) Any member who terminated employment on or after October 1, 1984, but before  
134 August 28, 1997, and who retires after August 28, 1997, may elect at retirement to become a  
135 special consultant as provided for in subdivision (1) of this subsection and elect any option  
136 provided pursuant to section 104.395, as in effect on August 28, 1997.

137 (3) Any member who terminated employment on or after October 1, 1984, but retired  
138 prior to August 28, 1997, who applied for increased benefits pursuant to the provisions described  
139 in subsection 3 or subsection 4 of section 104.395, and whose spouse died prior to September  
140 1, 1997, and who has been made, constituted and appointed by the board as a special consultant  
141 on the problems of retirement, aging, and other matters relating to retirement shall be eligible for  
142 additional compensation. As additional compensation for such services, such member shall  
143 receive a one-time payment in an amount equal to the difference in the amount of retirement

144 benefits that the member received and the amount the member would have received since the  
145 date of retirement had the member's benefit been calculated as described in subdivision (1) of  
146 this subsection.

147 (4) Any member who terminated employment on or after October 1, 1984, but retired  
148 before September 1, 1997, and who had elected a normal annuity at retirement, and who is  
149 receiving benefits on September 1, 1997, and who has been made, constituted and appointed by  
150 the board as a special consultant on the problems of retirement, aging, and other matters relating  
151 to retirement shall be eligible for additional compensation. As additional compensation for such  
152 services, beginning the first month following the death of the member, the member's surviving  
153 spouse who was married to the member of the transportation department and highway patrol  
154 retirement system on the date of retirement or the person who was married to the member of the  
155 Missouri state employees' retirement system on the date of retirement shall receive monthly an  
156 amount equal to fifty percent of the monthly annuity the retired member was receiving at the time  
157 of the member's death.

158 (5) If a member dies on or after September 1, 1997, but prior to receiving any one-time  
159 payment described in subdivision (1) of this subsection, payment shall be issued to the surviving  
160 spouse who was married to the member at the date of the member's death. If there is no  
161 surviving spouse, payment will be issued to the member's estate.

162 (6) Any member who terminated employment on or after October 1, 1984, retired,  
163 became a special consultant on the problems of retirement, aging and other matters relating to  
164 retirement or applies to become such a consultant, and whose annuity was not in pay status on  
165 September 1, 1997, pursuant to the provisions of section 104.380, shall be eligible for additional  
166 compensation. As additional compensation for such services, each special consultant shall be  
167 eligible for the benefits described in subdivision (1), (3) or (4) of this subsection depending on  
168 the annuity selected by the member at the time of retirement. Any one-time payment that may  
169 be due shall be paid upon application for such benefit. Any adjustment to a future annuity shall  
170 be made upon application for retirement or survivor benefits.

171 (7) Any person who received benefits pursuant to subsection 6 of section 104.335 prior  
172 to August 28, 1997, may apply to the board to become a special consultant on the problems of  
173 retirement, aging, and other matters relating to retirement. As compensation for such services,  
174 each special consultant shall be eligible to receive upon making application for such benefits a  
175 one-time payment which shall be equal to the difference between the amount of benefits the  
176 person received and the amount of benefits the person would have received had the original  
177 benefit payment been calculated under the actuarial assumptions in effect on August 28, 1997.

178 (8) Any person who was married to a member of the Missouri state employees'  
179 retirement system at the time the member retired and such member terminated employment on



180 or after October 1, 1984, elected one of the options providing for a continuing lifetime annuity  
181 at the time of retirement, and died prior to September 1, 1997, may apply to the board to become  
182 a special consultant on the problems of retirement, aging, and other matters relating to  
183 retirement. As additional compensation for such services, the survivor benefit of the special  
184 consultant shall be recalculated in the manner described in subdivision (1) of this subsection. The  
185 special consultant shall also receive a one-time payment in an amount equal to the difference  
186 between the amount of retirement and survivor benefits that the retired member and the special  
187 consultant received and the amount of retirement and survivor benefits the retired member and  
188 the special consultant would have received since the date of retirement had the retired member's  
189 and the special consultant's benefits been calculated as described in subdivision (1) of this  
190 subsection.

191 (9) Any person who was married to a member of the Missouri state employees'  
192 retirement system at the time the member retired and such member terminated employment on  
193 or after October 1, 1984, retired after electing a normal annuity, and died prior to September 1,  
194 1997, may apply to the board to become a special consultant on the problems of retirement,  
195 aging, and other matters relating to retirement. As additional compensation for such services,  
196 the special consultant shall receive a monthly benefit in an amount equal to fifty percent of the  
197 monthly annuity the retired member was receiving at the time of the member's death, including  
198 any annual benefit increases pursuant to subsections 7 and 8 of this section that occurred between  
199 the date of the member's death and the date of application. Such benefit shall commence upon  
200 application and shall include a one-time payment, if necessary, so that the special consultant shall  
201 receive the same amount that would have been paid to the special consultant had such benefit  
202 commenced the month following the death of the member.

203 (10) Any surviving spouse receiving benefits pursuant to the provisions of section  
204 104.420 as the result of the death of a member whose employment terminated on or after  
205 October 1, 1984, may apply to the board to become a special consultant on the problems of  
206 retirement, aging, and other matters relating to retirement. As compensation for such services,  
207 the benefit of each special consultant shall be reduced in the same manner as an annuity under  
208 option 1 of section 104.395 as in effect on August 28, 1997. The special consultant shall also  
209 receive a one-time payment in an amount equal to the difference between the amount of benefits  
210 that the survivor received and the amount of benefits the survivor would have received had the  
211 survivor's benefit been originally calculated as described under option 1 of section 104.395 as  
212 in effect on August 28, 1997.

104.1045. 1. Each person receiving an annuity shall be entitled to a cost-of-living  
2 adjustment (COLA) when there are increases in the consumer price index. The COLA shall be  
3 made annually beginning twelve months after the annuity starting date and shall be equal to

4 [eighty] **one hundred** percent of the increase in the consumer price index, but not more than five  
5 percent of the annuity amount payable immediately before the payment of the COLA provided  
6 that COLAs payable to a beneficiary shall commence during the month of the anniversary of the  
7 member's annuity starting date.

8         2. For the purposes of this section, an increase in the consumer price index shall be  
9 determined in January of each year, based upon the percentage increase of (a) the consumer price  
10 index for the preceding calendar year determined by dividing the sum of the monthly consumer  
11 price index values by twelve, over (b) the corresponding index for the next earlier calendar year.  
12 Any COLA so determined cannot be less than zero and shall be applied in calculating any COLA  
13 that becomes payable under this section during the calendar year in which January falls. Any  
14 surviving spouse, beneficiary, or former spouse receiving all or part of an annuity shall be  
15 eligible for such COLAs as provided herein.